

May 10, 1999

Richard L. Shelton
Clerk of the Circuit Court
County of Hanover

Board of Supervisors
County of Hanover

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the County of Hanover for the period July 1, 1997 through December 31, 1998. We conducted our audit in accordance with generally accepted auditing standards.

Our primary objectives were to test the accuracy of financial transactions recorded on the Court's financial management system; evaluate the Court's internal controls; and test its compliance with significant state laws, regulations, and policies. However, our audit was more limited than would be necessary to provide assurance on the internal controls or on overall compliance with applicable laws, regulations, and policies.

The results of our tests found the Court properly stated, in all material respects, the amounts recorded and reported in the financial management system. However, we noted material weaknesses in the internal controls and noncompliance with state laws, regulations, and policies that the Clerk needs to address as described below.

Properly Manage and Supervise Court Operations

The Clerk does not properly manage court operations and supervise court employees. The Clerk has delegated almost all of his duties to his staff, but the Clerk has not provided them appropriate training and does not adequately supervise them to ensure they perform their duties properly. The Clerk does not have written procedures detailing each employee's responsibilities, inform staff of changes to the financial system or fees, nor cross-train his employees. Neither the Clerk nor any of the employees review the daily financial and accounts receivable reports. Our audit revealed poor trust fund and accounts receivable management, missing case files, improper fee assessments, unsupported transactions, and undisbursed liabilities. Specifically, we found weakness in the following areas:

Accounts Receivable

- The Clerk does not enter all monetary judgments in the Judgment Docket as required by Section 8.01-446 of the Code of Virginia. The Clerk does not record judgments in the docket unless the court order requires it. The Judgment Docket is an important tool for the collection of unpaid fines and costs. The Clerk should promptly record all unpaid fines and costs in the Judgment Docket and use all available remedies to collect fines and costs.
- The Clerk does not promptly establish accounts receivables on the court's automated accounting system immediately after the final disposition of the case. The Clerk did not record amounts owed to the Commonwealth for 2 months to 10 years after final case disposition. To improve the collection of fines and costs due the Commonwealth and the County, the Clerk should establish receivables immediately upon sentencing.
- The Clerk does not review the updates and modifications to individual accounts daily. In our last report, we recommended the Clerk review the daily report; however, the Clerk is still not reviewing the updates and modifications report. A proper review would detect inappropriate changes to accounts and would allow the Clerk to monitor whether staff are recording adjustments promptly. The Clerk should monitor these reports daily to ensure the proper maintenance of account information and costs.
- The Clerk does not adequately monitor partial payment accounts. The court's accounting system generates a daily report of deferred and partial payment accounts where the defendant has not made payments as agreed. The Clerk does not review this report to identify delinquent accounts and initiate additional collection procedures. At December 31, 1998, the report included 75 delinquent accounts and the March 31, 1999 report showed that most accounts remained without referral for collection action. The Clerk should monitor all deferred and partial payment accounts, and for delinquent accounts, the Clerk should void the payment agreement, promptly change the due date to the trial date, and initiate collection efforts.
- The Clerk does not properly document changes to partial and deferred payment agreements. We noted that the court staff routinely alters the due dates without appropriate documentation. All fines and costs are payable immediately upon sentencing unless otherwise ordered by the court or evidenced by a written payment plan. Court staff should not alter due dates once they have established agreements unless they have a court order or a revised payment agreement.
- The Clerk does not properly monitor appealed cases. The Clerk places the appeal decision with the case papers and does not notify the employee responsible for updating the automated case management system. Therefore, the financial accounting system did not have the proper dispositions of appealed cases shown until several months later. The Clerk should monitor the status of all appealed accounts and update the case management system promptly upon disposition.

Liabilities

- The Clerk does not monitor inactive civil cases. Code of Virginia §8.01-335 establishes guidelines for removing inactive civil cases from the court's docket after 1, 2, and 3 years of inactivity. The court's docket has civil cases up to 7 years old. These old cases clutter and overstate the court's docket report, which is one of the tools the Compensation Board uses to allocate court funding. The Clerk should immediately identify inactive civil cases, petition the court to remove them from the docket, and refund any bonds. Further, the Clerk should begin to consistently monitor inactive cases.
- The Clerk does not promptly disburse civil bonds in ended cases. The Clerk is still holding bonds for cases that ended up to three years ago. Of 10 civil bonds held as of March 1999, that we tested:
 - ◆ 2 cases had missing files,
 - ◆ 3 cases ended and the court ordered the bond disburse,
 - ◆ 4 cases ended but the court did not specifically order the bond disbursed; therefore, the Clerk held the bond, and
 - ◆ 4 of the ended cases had no updated information on the case management system.

The Clerk should immediately implement controls to promptly update the court's automated system and promptly and properly disburse bonds in ended cases.

- The Clerk should discuss with the Judge, the Division of Unclaimed Property, and the Attorney General the propriety of the court order assigning the Commissioner of Chancery the responsibility of preparing the Unclaimed Property Report. Under the court order, the Commissioner of Chancery receives 9.5 percent of each unclaimed item submitted to the Division of Unclaimed Property, as a fee for preparing the report. This fee totaled \$2,974 in fiscal year 1998 and represents amounts that could have been refunded to the original owner of the funds or deposited to the Literary Fund of the Commonwealth. The Uniform Disposition of Unclaimed Property Act, §55-210 of the Code of Virginia states that the Clerks of the Circuit Court are responsible for identifying unclaimed moneys held by them and does not specifically allow such a deduction before remitting unclaimed property. The Clerk should contact the Judge, the Division of Unclaimed Property, and the Attorney General to resolve the issue of deducting payment from the unclaimed amounts for the preparation of the Unclaimed Property Report.

Access

- The Clerk does not adequately control access to his automated case management system. The Clerk assigned the Judge's Administrative Assistant a security level of access that allows her to enter, update, and delete cases from the system. Without adequate oversight, training, and supervision inappropriate access can result in errors or the opportunity for unauthorized modifications and deletions. The Clerk should limit system update and delete capability to supervisory personnel.

Trust Funds

- The Clerk did not file an annual report of money under control of the court that meets the requirements of Section 8.01-600 of the Code of Virginia. The Clerk provides the Court with a monthly bank statement of trust fund accounts, but these statements are not a valid substitute for annual reporting. For several years, the Clerk's automated accounting system has provided an ability to easily generate an Annual Trust Report that meets all requirements of the Code of Virginia. The Clerk should use the automated system to submit the Annual Report to the Judge by October 1 of each year.
- The Clerk does not properly manage money under control of the court. The Clerk does not establish new accounts and record trust fund receipts in his automated accounting system when received. Rather, the Clerk endorses and sends the check directly to the bank and records transactions in the accounting records only upon receipt of a bank statement. The Clerk should record all transactions first in his accounting records and then reconcile the transactions he recorded to the bank statements as a control. Additionally, to provide control over these funds, the Clerk should follow the specific accounting, recordkeeping, and reporting procedures outlined in The Trust Fund Administration Manual.

Wills and Administrations

- The Clerk does not charge a separate filing fee for a list of heirs as required by §17.1-275A(2) of the Code of Virginia. The Clerk counts the lists of heirs as additional pages to the will, which results in uncollected fees of up to \$12 for each document. This resulted in up to \$4,728 of lost revenue to the Commonwealth for the past year. We have reported this finding for the past two years. Although the Code of Virginia and an Attorney General's opinion clearly state that the Clerk should charge a separate fee, the Clerk continues not to charge the proper fee. The Clerk should immediately begin assessing the filing fee for a list of heirs. If the Clerk does not take immediate corrective action, we believe the judge should hold him personally liable for the loss of revenue to the Commonwealth.
- The Clerk charges a \$10 miscellaneous Clerk's fee for probating a will without a qualification. As reported in the prior year, the Clerk has no statutory basis for charging this fee, but continues to charge the additional fee. The Clerk must only charge fees specified by the Code of Virginia.
- The Clerk does not have documentation to support the computation of clerk's fees assessed with will filings. In 6 of 15 instruments we tested, the auditor could not determine whether the Clerk assessed and collected the appropriate fees. The Clerk should document the computation and assessment of all fees.

The Clerk should immediately take corrective action on all findings. Due to the conditions identified and the absence of controls, the risk of fraud or misappropriation of funds is high. The Clerk should reorganize workflow, define job duties, and cross-train employees. He should ensure his staff has the appropriate training and supervision to perform their duties so that they may comply with state laws and regulations and Supreme Court policies and procedures.

Richard L. Shelton
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We discussed these comments with the Clerk on May 5, 1999 and we acknowledge the cooperation extended to us during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:aom

cc: The Honorable John W. Scott, Jr., Chief Judge
Richard Johnson, County Administrator
Bruce Haynes, Executive Secretary
Compensation Board
Martin Watts, Court Analyst
Supreme Court of Virginia
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Supreme Court of Virginia
Vicki D. Bridgeman, Director
Department of Treasury, Division of Unclaimed Property